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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/549,370	04/13/2000	Michael Brader-Araje	9144-5	8285

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MYERS BIGEL SIBLEY & SAJOVEC  
PO BOX 37428  
RALEIGH, NC 27627

EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/549,370

Applicant(s)

BRADER-ARAJE ET AL.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 10-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

Claims 1-53 are pending in the instant application. Claims 1-9 have been elected with traverse. Claims 10-53 have been withdrawn from further consideration.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freivald et al. (U.S. Patent No. 5,898,836) in view of Ng (U.S. Patent No. 6,405,175).

Freivald et al. discloses a method of updating information maintained at an intermediary web site (col. 3, line 64-col. 4, line 21). The method comprises obtaining data that has changed (col. 7, lines 35-39); extracting keywords from the data (col. 7, lines 9-12); and storing the keywords (col. 6, lines 32-46).

Freivald et al. discloses cyclic redundancy checking (CRC) as a preferred technique in periodically (col. 6, lines 51-52) assessing current data resident in a remote site in comparison to previously stored data resident in an intermediary site (col. 6, lines 32-46).

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Although Freivald et al. discloses that "[s]ource document 30 could be any one of millions of HTML documents on the thousands of web servers connected to the Internet" (col. 10, lines 9-11), Freivald et al. does not disclose that the data is auction item data.

Ng, however, teaches that the Freivald et al. invention (i.e. U.S. Patent No. 5,898,836) can be used to periodically and automatically search an online auction site for a particular item and price (Ng: col. 2, lines 31-36).

It would have been obvious to one of ordinary skill in the art to have incorporated the invention of Freivald et al. in a method for updating and searching auction item data (as taught by Ng) because Ng explicitly establishes that such combination is desirable for this purpose and is within the level of skill in the art.

Regarding claims 3-9, the combination of Freivald et al. and Ng does not teach a data engine at each site. However, to have provided distributed a data engine at each site, rather than the central data engine already taught by Freivald et al. (see col. 6, lines 55-67) would have been obvious to one of ordinary skill in the art in order that changes to various sites could be reported to a user immediately upon the posting of any change to a particular site, rather than upon a later periodic re-fetching of such site by the Freivald et al. server. Such modification would have further reduced the time and effort required of a user in keeping abreast of changes at a particular site (see Freivald et al.: col. 13, lines 9-10). Moreover, such distribution is already contemplated by Freivald et al. which teaches that "[t]he change-detection tool can be located on a server separate from the web server itself and simply be called by the site's web server" (col. 14, lines 23-25).

### ***Response to Arguments***

Applicant's arguments filed January 2, 2004 have been fully considered but they are not persuasive.

The Applicant remarks, "extracting keywords is performed by an agent or program, which does not read on the user selection described by Feivald" (Response: page 23).

The Examiner notes, the claims are not limited to an agent performing the recited step of extracting keywords (claim 1, line 8; and claim 7, line 3). Accordingly, such argument is not commensurate to the scope of the claims. Applicant's argument that such agent or program extracting keywords is disclosed does not limit the scope of the claims to such. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicant remarks, "Freivald fails to teach or suggest the steps of extracting keywords and storing the extracted keywords as defined in the present application and recited in Claim 1."

The Examiner notes, the Applicant defines and uses a Keyword, as a word that is extracted from auction item data and associated with an item (Page 5, Applicant's Specification as Filed). This is equivalent to the method as defined by Freivald, whereby often a user is only interested in a small part of a document, rather than the whole document. A user might be interested only in one contact or phone number on a list of hundreds of phone numbers for an office, or only one product line in a long list of

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products. It is desirable to allow the user to specify only the portion of a document or web page that is of interest (col. 3, lines 42-47). In the method defined by Freivald the user highlights a significant or descriptive word that is used as a reference point for finding information. By definition this is a Keyword.

The Examiner further notes, once Freivald extracts the relevant Keywords, a software tool automatically retrieves files and compares the retrieved files to an archived (stored) checksum of the file to determine if a change in the file (change in keywords) has occurred (col. 6, lines 20-31). These archived words are stored in database **16** (col. 7, lines 1-55).

The Applicant remarks, "...the Action has set forth no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Freivald." (Response: page 23).

The Examiner notes, Ng, teaches that the Freivald et al. invention (i.e. U.S. Patent No. 5,898,836) can be used to periodically and automatically search an online auction site for a particular item and price (Ng: col. 2, lines 31-36).

It would have been obvious to one of ordinary skill in the art to have incorporated the invention of Freivald et al. in a method for updating and searching auction item data (as taught by Ng) because Ng explicitly establishes that such combination is desirable for this purpose and is within the level of skill in the art.

The Applicant remarks, with reference to claim 6, the stated motivation for modification is insufficient, and that having a data engine at each web site in the invention of Freivald would seem impractical and undesirable. (Response: page 24).

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The Examiner notes, such modification would have reduced the time and effort required of a user in keeping abreast of changes at a particular site (see Freivald et al.: col. 13, lines 9-10). Moreover, such distribution is already contemplated by Freivald et al. which teaches that "[t]he change-detection tool can be located on a server separate from the web server itself and simply be called by the site's web server" (col. 14, lines 23-25). The Examiner further notes, obviousness is established because there is some teaching, suggestion, or motivation to do so explicitly in the Freivald reference.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Noble, U.S. Patent No. 5,978,842, November 2, 1999, discloses a distributed-client change-detection tool with change-detection augmented by multiple clients.

Ortega, U.S. Patent No. 6,549,904, April 15, 2003, discloses an auction notification system.

Rubinstein, U.S. Patent No. 5,913,215, June 15, 1999, discloses browse by prompted keyword phrases with an improved method for obtaining an initial document set.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew s Gart whose telephone number is 703-305-5355. The examiner can normally be reached on 8:30AM to 5:00PM m-f.

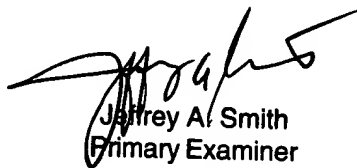
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG  
April 28, 2004



Jeffrey A. Smith  
Primary Examiner